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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,947	06/06/2006	Bertrand Leblond	BJS-3665-181	5513
23117 7590 08/26/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
SEAMAN, D MARGARET M				
ART UNIT		PAPER NUMBER		
1625				
MAIL DATE		DELIVERY MODE		
08/26/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/581,947

**Applicant(s)**

LEBLOND ET AL.

**Examiner**

D. Margaret Seaman

**Art Unit**

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 22-41 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

This application was filed 6/6/2006 and claims 1-21 have been canceled. This application is a 371 of PCT.IB04/04334 (12/10/2004) and foreign application EP 03293143.8 (12/12/2003). Claims 1-21 have been canceled. Claims 22-41 lack unity of invention, as shown below.

#### ***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group 1, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is N.

Group 2, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is O.

Group 3, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is S.

Group 4, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is C and the X2-X3-X4 ring makes pyridinyl.

Group 5, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is C and the X2-X3-X4 ring makes pyrimidinyl.

Group 6, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is C and the X2-X3-X4 ring makes triazinyl (6-membered ring, 3 N and 3 C atoms).

Group 7, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is C and the X2-X3-X4 ring makes isoxazolyl.

Group 8, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is C and the X2-X3-X4 ring makes thiophenyl.

Group 9, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is C and the X2-X3-X4 ring makes furanyl.

Group 10, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is C and the X2-X3-X4 ring makes pyrazolyl or imidazolyl (5-membered ring 2 N 3 C atoms).

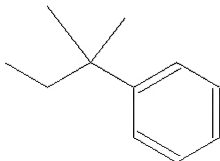
Group 11, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is C and the X2-X3-X4 ring makes isothiazolyl or thiazolyl (5-membered ring, 1 S, 1 N and 3 C atoms).

Group 12, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is C and the X2-X3-X4 ring makes thienyl (5-membered ring, 1 S 4 C atoms).

Group 13, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is C and the X2-X3-X4 ring makes phenyl or other non-heterocyclic ring, with an election of a single disclosed species.

Group 14, claim(s) 22-41, drawn to compounds and methods of treatment wherein formula (I) and X1 is C and the X2-X3-X4 ring makes a heterocyclic ring other than described above with an election of a single disclosed species.

2. The inventions listed as Groups 1-14 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The common core



lacks unity of invention because it is know in WO

2001/056358 with RN 1168807-04-2 which has the same core as instantly claimed with a different utility of a pesticide. Due to this, unity of invention is lacking.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Margaret Seaman whose telephone number is 571-272-0694. The examiner can normally be reached on 730am-4pm, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on 571-272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

D. Margaret Seaman  
Primary Examiner  
Art Unit 1625

/D. Margaret Seaman/  
Primary Examiner, Art Unit 1625